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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

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IN THE MATTER OF DETERMINING  
Whether there has been a violation  
of the Business Opportunity Fraud Act of the  
State of Washington by:

Mark 5, Inc., Robert D. King, Troy A.  
Whitworth, their employees and agents,

Respondents.

Order No. S-04-025-04-FO01

FINAL ORDER TO CEASE AND DESIST

THE STATE OF WASHINGTON TO:

Mark 5, Inc.  
Robert D. King  
9808 Town & Country Blvd, #120  
Houston, TX 77054-2208

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On March 30, 2004, the Securities Administrator of the State of Washington issued Summary Order to Cease and Desist S-04-025-04-TO01, hereinafter referred to as the "Summary Order", against Respondents Mark 5, Inc. and Robert D. King, their employees and agents. On or about April 4, 2004, the Summary Order to Cease and Desist, together with a Notice of Opportunity to Defend and Opportunity for Hearing (hereinafter referred to as "Notice of Opportunity for Hearing") and an Application for Adjudicative Hearing (hereinafter referred to as "Application for Hearing"), was served via certified mail and regular U.S. Mail on Mark 5, Inc. and Robert D. King. The Notice of Opportunity for Hearing advised Mark 5 and Robert D. King that each had twenty days from the date the notice was received to file a written application for an adjudicative hearing on the Summary Order to Cease and Desist. The Summary Order to Cease and Desist and the Notice of Opportunity for Hearing further advised that if they did not request a hearing, the Securities Administrator intended to adopt the Tentative Findings of Fact and Conclusions of Law set forth in the Summary Order to Cease and Desist as final. Robert D. King communicated with the

1 Securities Division by telephone on April 4, 2004 and advised the Division that he did not want to  
2 request a hearing in the matter. Robert D. King returned the Application for Hearing form to the  
3 Securities Division by U.S. Mail on April 12, 2004, indicated on the form that he did not request a  
4 hearing and signed the form as President of Mark 5, Inc.

5 The Securities Administrator therefore adopts as final the findings of fact and conclusions of law as  
6 set forth in the Summary Order.

7 The Securities Administrator finds as follows:

8 **FINDINGS OF FACT**

9 I.

10 Mark 5, Inc. is a Texas corporation that maintains its principal business address at 908 Town &  
11 Country Boulevard, #120, Houston, Texas. Mark 5, Inc. is the seller of distributorships for the sale of  
12 jewelry items (the "jewelry opportunity"). Mark 5, Inc. was registered to offer and/or sell its business  
13 opportunity in Washington from November 10, 1998 to November 10, 1999. Mark 5, Inc. has not been  
14 registered since November 10, 1999.

15 Robert D. King (King) is the President of Mark 5, Inc. and served in such capacity at all times  
16 relating to the offer and sale of Mark 5, Inc, jewelry distributorship business opportunities.

17 Troy A. Whitworth (Whitworth) is the National Marketing Director for Mark 5, Inc, and served in  
18 such capacity at all times relating to the offer and sale of Mark 5, Inc. jewelry distributorship business  
19 opportunities.

1 II.

2 On March 8, 2000, the Division issued Summary Order to Cease and Desist against Mark 5, Inc. and  
3 Robert D. King for violations of the registration and antifraud provisions of the Washington Business  
4 Opportunity Fraud Act.

5 On March 13, 2000, the company was served, by certified mail, the Summary Order to Cease and  
6 Desist, a Notice of Opportunity to Defend and Notice of Hearing, and an Application for Hearing.

7 Respondents failed to reply to the Summary Order and failed to notify the Division within twenty days  
8 of service that they wished to make a request and/or application for hearing.

9 III.

10 Respondents Mark 5, Inc. and/or Robert D. King placed or caused to be placed an advertisement in the  
11 Vancouver Columbian newspaper published in Vancouver, Washington on at least January 31, 2004. A  
12 Washington resident responded to the ad by calling the toll-free number contained in the advertisement to  
13 obtain further information about a route sales opportunity. The Washington resident spoke with Whitworth,  
14 who identified himself as the National Marketing Director for Mark 5, Inc. and referred the Washington  
15 resident to an Internet website: [www.mark5inc.com](http://www.mark5inc.com), at which he found a second toll-free number.

16 The Washington resident called the second toll-free number and spoke to King, who told the  
17 Washington resident that the opportunity had a “one-year return policy.” The Washington resident at that time  
18 requested and subsequently obtained from Mark 5, Inc. and Robert D. King offering and promotional materials  
19 concerning the jewelry opportunity. The materials included a “Wholesale Distributor Training Manual” for  
20 Mark 5, Inc. and a sample distributorship agreement.

21 King told the Washington resident that for the best “package deal” cost \$12,500 and included locating  
22 services for 30 display racks. The purchase price included 720 pairs of earrings, 30 display racks, banners,

1 toppers, a training manual, and telephonic training if necessary. King told the Washington resident sales were  
2 split 70/30 between the “distributor” and the location owner. King told the Washington resident that he would  
3 earn 50% on each sale.

4 The Washington resident spoke to King again on February 20, 2004. The Washington resident asked  
5 King if Mark 5, Inc. was registered to sell its business opportunity in Washington. King told the Washington  
6 resident that Mark 5, Inc. was “fully licensed” to sell its jewelry business in Washington.

7 Respondents Mark 5, Inc, King and Whitworth failed to disclose the existence of the previous  
8 administrative order issued by the Division. Respondents failed to provide the Washington resident with a  
9 disclosure document containing complete material information regarding the opportunity, including but not  
10 limited to a financial statement for the seller.

11 IV.

12 Mark 5, Inc. is not currently registered with the Washington Securities Division to offer or sell business  
13 opportunities in the state of Washington and was not so registered at the time of the offer of the jewelry  
14 distributorship business opportunity to the Vancouver, Washington resident. It is in the public interest that the  
15 offer and/or sale of the above-described jewelry opportunity in violation of the Washington Business  
16 Opportunity Fraud Act cease.

17  
18 Based upon the above Findings of Fact, the following Conclusions of Law are made:

19 **CONCLUSIONS OF LAW**

20 I.

21 The offer and/or sale of the jewelry opportunity as described in Findings of Fact I and III constitutes  
22 the offer and/or sale of a business opportunity as defined in RCW 19.110.020(1).

1 II.

2 The offer and/or sale of the jewelry opportunity as described in Findings of Fact I through III was  
3 made in violation of RCW 19.110.070 and RCW 19.110.120 because Respondents failed to provide a  
4 Washington purchaser with a disclosure document containing complete material information regarding the  
5 opportunity, including, but not limited to, a financial statement for the seller and disclosure of the previous  
6 administrative order from the Division.

7 III.

8 The offer and/or sale of the jewelry opportunity as described in Findings of Fact I through IV was  
9 made in violation of RCW 19.110.050(1) because no business opportunity registration had been made  
10 nor a permit issued to Respondents for the offer and/or sale of the business opportunity in this state at the  
11 time of the offer or sale to the Washington resident.

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13 **FINAL ORDER**

14 Based upon foregoing,

15 NOW, THEREFORE, IT IS HEREBY ORDERED that Mark 5, Inc. and Robert D. King, their  
16 employees and agents, each cease and desist from violating RCW 19.110.070 and RCW 19.110.120, the  
17 disclosure document and antifraud provisions of the Business Opportunity Fraud Act, respectively.

18 It is further ORDERED that Mark 5, Inc. and Robert D. King, their employees and agents, each cease  
19 and desist from violations of RCW 19.110.050(1), the registration requirement provision of the Business  
20 Opportunity Fraud Act.

1 **AUTHORITY AND PROCEDURE**

2 This Order is entered pursuant to the provisions to the provisions of RCW 19.110.150 and chapter  
3 34.05 RCW.

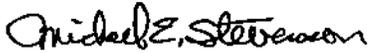
4 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

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6 DATED this 13<sup>th</sup> day of April, 2004.

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9 Deborah R. Bortner  
10 Deborah R. Bortner  
11 Securities Administrator

12 Approved by:

13 

14 Michael E. Stevenson  
15 Michael E. Stevenson  
16 Chief of Enforcement

17 Presented by:

18 

19 MARTIN CORDELL  
20 MARTIN CORDELL  
21 Financial Legal Examiner